

# DIRECTIVE

## WORKFORCE INVESTMENT ACT

Number: WIAD04-11

Date: November 18, 2004  
69:43:lh:8662

TO: WORKFORCE DEVELOPMENT COMMUNITY

SUBJECT: UNILATERAL DE-OBLIGATION

### EXECUTIVE SUMMARY:

#### Purpose:

The purpose of this directive is to inform the workforce community about State criteria and processes that the Workforce Investment Division (WID) will use to de-obligate or cancel funds when a state-funded project is lagging.

#### Scope:

This directive applies to Local Workforce Investment Areas (LWIA) and other direct recipients of Governor's Workforce Investment Act (WIA) 15 Percent and 25 Percent special project and additional assistance funds. This directive does not apply to adult, dislocated worker, and youth funding provided on a formula-allocation basis to LWIAs, in accordance with Sections 128(b) and 133(b) of WIA. It also does not apply to 25 Percent funds that have been provided pursuant to the state's Rapid Response allocation formula.

#### Effective Date:

This directive is effective immediately.

### REFERENCES:

- WIA Directive WIAD02-13, Dislocated Worker 25 Percent Fund Requirements (April 24, 2003)
- WIA Directive WIAD02-14, 15 Percent Project Requirements (April 24, 2003)
- WIA Directive WIAD04-9, Dislocated Worker 25 Percent Funding Policy (October 14, 2004)
- WIA Information Bulletin WIAB02-23, 15 Percent Project Requirements (September 26, 2002)

### STATE-IMPOSED REQUIREMENTS:

This directive contains only state-imposed requirements.

## **FILING INSTRUCTIONS:**

This directive supersedes WIA Draft Directives WIADD-62, issued for comment on November 12, 2003; WIADD-67 and WIADD-68, issued for comment on February 26, 2004; and finalizes WIA Draft Directive WIADD-82, issued for comment on October 7, 2004. Retain this directive until further notice.

## **BACKGROUND:**

The WID's experience with WIA 15 Percent and 25 Percent grants has indicated that some projects do not make ongoing and timely use of awarded funds or lag in serving participants. Consequently, the State is hereby establishing criteria that will guide State action to ensure timely and effective use of available discretionary resources.

## **POLICY:**

This policy applies only to special projects funded with WIA 15 Percent and 25 Percent funds allotted to the State under Sections 128(a) and 133(a) of WIA. This directive does not apply to adult, dislocated worker, and youth funding provided on a formula allocation basis to LWIAs, in accordance with Sections 128(b) and 133(b) of WIA. It also does not apply to 25 Percent funds that have been provided pursuant to the state's Rapid Response allocation formula.

The WID's staff will review projects quarterly to determine whether they are achieving their project goals and making timely use of awarded funds. If WID staff finds a project to be lagging either programmatically or fiscally, the WID may exercise the option to unilaterally de-obligate and recapture excess funds or terminate the project. The WID will notify the subgrantee well in advance of either planned action.

## **PROCEDURES:**

The WID's staff will review each project's reported fiscal and program data quarterly.

The WID will use a 20 percent variance (planned vs. actual). A project that exceeds the 20 percent variance will be considered to be "lagging."

**Projects with lagging expenditures:** Such projects are subject to funding de-obligation or termination, based on the percentage the project expenditures are found to be below plan. For example, if a project is 40 percent below the planned expenditure level, WID could reduce the project's overall funding by 40 percent. Other reductions or an action to implement no reduction would be allowable. Project termination would be an option if the spectrum of lagging factors is such that the project appears unlikely to be able to succeed.

**Projects with lagging participant service attainments:** Such projects are also subject to funding de-obligation or termination, based on the percentage the project participant service attainments are found to be below plan. For example, if a project's enrollments are 40 percent below plan, WID could reduce the project's overall funding by 40 percent.

Other reductions or an action to implement no reduction would be allowable. Project termination would be an option if the spectrum of lagging factors is such that the project appears unlikely to be able to succeed. However, if funding is reduced due to low expenditures it will not be further reduced for concomitant low participant service attainments.

**Combined factors:** Staff will compare the rates of expenditure and participation to determine the viability of the project. If the percentage of actual to planned expenditures exceeds the percentage of actual to planned participants by more than 20 percentage points, the State will consider the project to be lagging. For example, a project is lagging if its expenditures are 111 percent of plan and its enrollments are 90 percent of plan.

In response to the above example, the WID could reduce the project's overall funding. Project termination would be an option if the spectrum of lagging factors significantly exceeds that of the example, to the extent that the project appears unlikely to be able to succeed.

**Mitigating factors:** In conducting the review, WID staff will take into account any mitigating factors, such as:

1. How long the recipient actually has had the funding (i.e., whether the project is in its initial stages).
2. Whether unforeseen temporary barriers caused low expenditures or client services (i.e., the fact that the project is lagging is not indicative of its future operations).
3. Whether the project's lagging performance reflects a past performance issue which then was overcome in the subsequent operation of the project.
4. Whether the project operator has a corrective action plan that appears likely to be successful.

The WID staff will make recommendations to WID management regarding all lagging projects. Recommendations will be to reduce funding, terminate the project, let it continue to operate unchanged, or let it continue to operate with stipulations (which may include a probationary period wherein improvements are to be shown, a viable corrective action plan, or other agreed-upon actions which have the potential to ensure the success of the project). The WID Chief will review and approve all recommendations to reduce funding or to terminate projects before they are implemented.

## **DISCUSSION:**

These policies and procedures depend on initial implementation of sound, realistic participant and expenditure plans, and on maintenance of these plans on an ongoing basis. It is essential for project operators to work with their assigned Regional Advisor or Project Manager to develop and receive approval of a realistic initial plan and to make timely changes as circumstances dictate. Mere submission of revised participant and/or expenditure plans will not constitute adequate corrective action. Any requested changes, and in particular requests for "time-only" extensions, must be accompanied by strong

justification and supporting documentation. The Regional Advisor or Project Manager will consider the quality of such requests in making his/her recommendation.

#### **INCREMENTAL AND SPLIT-YEAR FUNDING DECISIONS:**

These policies, procedures, and other considerations apply as well to incrementally and split-year funded projects. If the analysis of current expenditures or client services indicates the project is lagging and its funding is at risk of being reduced or terminated, the award of previously-reserved incremental funding and/or funding for the subsequent year may be affected concomitantly. Such funding may be reduced or denied, consistent with any de-obligation decision which has been reached regarding the project's current year funding.

#### **ACTION:**

Please bring this directive to the attention of appropriate staff.

#### **INQUIRIES:**

Please direct any questions about this directive to your assigned Program Manager at (916) 654-7799 or [Regional Advisor](#) at (916) 653-6347.

/S/ BOB HERMSMEIER  
Chief  
Workforce Investment Division